IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.2032 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CHAKUBHAI GOVABHAI DESAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2032 of 1999

MR KV SHELAT for Petitioner No. 1-7

MR NAGESH SOOD, AGP for Respondent Nos. 1,3

MR PRASHANT G DESAI for Respondent No. 2

MS KHYATI P HATHI for Respondent No. 4-10

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 11/08/2004

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution India the petitioners have challenged the

Town Planning Scheme No.23 of Sabarmati, Ahmedabad. However, today, when the matter is called out, Mr.K.V.Shelat, learned advocate for the petitioners, does not press the present petition for that prayer.

2. Mr.Shelat submitted that all the petitioners were in occupation of the land in question prior to 1976 and as per the policy of the Ahmedabad Municipal Corporation (hereinafter referred to as 'the Corporation') they are entitled to the alternative accommodation. In the affidavit-in-reply filed by the Corporation, it has been specifically stated in Paragraph 10 that the Corporation by order dated 03-03-1999 decided that the petitioners are eligible to get alternative accommodation and, therefore, the said order was also communicated to the petitioners. However, at that point of time, the petitioners had not accepted the said offer of the Corporation.

3. Today, Mr.Shelat has submitted that the petitioners are ready and willing to accept the offer of the Corporation for alternative site.

4. In that view of the matter, the Corporation is directed to give alternative site to the petitioners as per their own policy and as per the order dated 03-03-1999. For that purpose, the petitioners are directed to approach the Corporation within a period of 02 (two) weeks from today. The Corporation will show them alternative site and thereafter after completing all the necessary formalities the Corporation will hand over alternative site to the petitioners within a period of 08 (eight) weeks thereafter.

5. On giving the possession of the alternative site the petitioners are directed to hand over vacant and peaceful possession of the land which is occupied by them, which is forming Town Planning Scheme, to the Corporation immediately and on getting the possession of the land in question from the petitioners, the respondent Corporation is directed to hand over the possession which is to be allotted to the respondent Nos.4 to 10 immediately.

6. For the reasons stated above, the petition is partly allowed. Rule is made absolute to the aforesaid extent. No order as to costs. Direct service permitted.

Sd/-

[M.R.SHAH, J]

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'Bhavesh'
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